

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 26 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

DIANE RHODES LYONS; et al.,

Plaintiffs - Appellants,

v.

ESTATE OF MILLIE WHITE ROMERO;
et al.,

Defendants - Appellees.

No. 06-16168

D.C. No. CV-05-01292-RLH

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, District Judge, Presiding

Submitted March 18, 2008^{**}

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Diane Rhodes Lyons and Albert Rhodes, Jr. appeal pro se from the district court's judgment affirming a decision by the Interior Board of Indian Appeals that

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denied appellants' challenge to their mother's will. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *see Williams v. Clark*, 742 F.2d 549, 550-51 (9th Cir. 1984), and we affirm.

The district court properly rejected appellants' equal protection challenge to 25 U.S.C. § 373 because the statute does not involve a suspect classification or a fundamental right, and appellants failed to negate "every conceivable basis which might support" Congress's decision to allow Native American Indians to devise their allotments to persons other than their children. *Heller v. Doe*, 509 U.S. 312, 319-21 (1993).

To the extent appellants preserved for appeal their remaining contentions, those contentions are unpersuasive.

AFFIRMED.